

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

United States of America,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 84-104
)	
Government of the Virgin Islands,)	
)	
Defendant.)	
_____)	

APPEARANCES:

David Nissman, Esq.
United States Attorney
William Dillon, Esq.
Special Assistant United States Attorney
David Lewis, Esq.
Assistant United States Attorney
Donald G. Frankel, Esq.
U.S. Department of Justice
For the plaintiff,

Iver A. Stridiron, Esq.
Attorney General
Michael Law, Esq.
Assistant Attorney General
Douglas Jurgens, Esq.
Assistant Attorney General
For the defendant.

ORDER
Agreed Modifications for Exhibit A Repairs

Moore, J.

Pursuant to the Court's direction at the end of the
February 13, 2003 Status Conference in this matter, the

Government of the Virgin Islands reached an agreement with the United States for new deadlines for wastewater repairs, including some additional repairs to the Exhibit A projects. These agreed modifications are incorporated into Exhibit A of the Court's December 19, 2001 Order (as amended by the Court's November 19, 2002 Order). Having considered the entire record in this matter, including the testimony and documentary evidence presented at the hearings on January 30, February 3 and 13, 2003, and based on the agreement of the parties, it is hereby,

ORDERED, ADJUDGED AND DECREED that:

The revised deadlines for the projects/repairs covered by the invalid and now-cancelled GRM Contract, as well as with respect to the other projects/repairs required by the Court's December 19, 2001 Order (as amended by the Court's November 19, 2002 Order) that, as discussed at the Status Hearing held on February 13, 2003, have not been completed in a timely manner set forth in the "Agreed Modifications for Exhibit A Repairs" and "Exhibit A Schedule for Repairs (As agreed to by parties on February 27, 2002)" are adopted by the Court as follows:

A. ST. CROIX

1. St. Croix Wastewater Treatment Plant

- a. Mechanical Seals will now be used at the Plant and these seals are to be installed by April 15, 2003.
- b. A written Standard Operating Procedure, acceptable to EPA, will be submitted by March 30, 2003.

2. St. Croix Sewer Collection System

(These Projects were formerly covered under the Global Resources Management Contract.)

- a. Race Track Repair - May 30, 2003 to begin construction and August 31, 2003 to complete work.
- b. Bethlehem Gut Repair - May 30, 2003 to begin construction and August 31, 2003 to complete work.
- c. Catherine's Rest Repair - May 30, 2003 to begin construction and August 31, 2003 to complete work.
- d. Adventure Gut Investigation and Repair - Complete investigation by March 31, 2003. If repairs are needed, begin construction by May 30, 2003 and complete construction by August 31, 2003.

3. Figtree Pump Station

- a. Repairs to Pumps. The deadlines for repairs for all the pumps are extended to April 30, 2003.

- b. Replace Motor Control Center for all Pumps, refurbish Starters and Controllers. The deadline is extended from February 3, 2003 to April 30, 2003.
 - c. Replace or repair air exhaust/inlet ventilation system in the wet-well. The deadline for this repair is extended from December 31, 2002 to April 30, 2003.
 - d. Replace Check Valves, flanges and spool pieces. The deadline for this repair is extended from February 3, 2003 to April 30, 2003.
 - e. Repair/reinforce all house pump anchor bases. The deadline for this repair is extended from February 3, 2003 to April 30, 2003.
4. Lagoon Street Pump Station
- a. New Emergency Generator shall be installed by April 30, 2003.
 - b. Inspection of discharge pipe shall be completed by May 30, 2003 and all repairs completed by November 30, 2003.
5. LBJ Pump Station
- a. New Emergency Generator. The Generator is on-island but further engineering is required before it can be installed. The Parties have agreed to extend this

deadline to March 28, 2003.

- b. Replace or repair any Pumps that are not operational so that all the house pumps are in full operational condition at all times. The parties have agreed to extend this deadline to April 30, 2003.

6. New 2003 St. Croix Projects/Repairs

The parties have agreed to add some new projects/repairs with associated deadlines to Exhibit A. These projects and repairs are to be funded from the Wastewater Corrective Action Trust Fund bank account (created pursuant to Section A.3 of the Court's December 19, 2001 Order). The Government shall reimburse the bank account for these projects/repairs by September 30, 2003.

- a. Lagoon Street Pump Station - replace or repair any pumps that are not operational so that all three house pumps are in full operational condition - July 31, 2003.
- b. St. Croix Pump Stations other than LBJ, Figtree, and Lagoon Street - replace or repair any pumps that are not operational so that all the house pumps are in full operational condition - August 31, 2003.
- c. St. Croix Pump Stations other than LBJ, Figtree and

Lagoon Street - replace or repair any emergency generators that are not operational so that all emergency generators are in full operational condition - May 30, 2003.

- d. Lagoon Street Pump Station and LBJ Pump Station - install "T" valves so that an emergency diesel pump can be used at these stations - July 31, 2003.
- e. Acquire an additional diesel emergency pump for use on St. Croix - July 31, 2003.
- f. Estate Diamond Sewer Repair - August 31, 2003.

7. Sanitary Sewer System Evaluation

The Government is given until March 31, 2004 to complete this project.

B. ST. THOMAS

1. Airport Lagoon.

The Government is given until March 14, 2003 to have all repairs completed and the plant fully operational. The deadline for reinforcement of the Lagoon West Berm is extended to March 31, 2004. The VI Government has taken the position that this requirement should be deleted

because it does not have control and jurisdiction over this area to effectuate the repair. The VI Government shall submit its justification to EPA and EPA shall determine whether it agrees that this requirement should be deleted.

2. Cancryn Pump Station

The deadline is extended for installation of the explosion-proof lights and other repairs is extended to March 30, 2003 with the exception of the repairs to the hoist which shall be completed by April 30, 2003.

3. Long Bay Pump Station

The parties have agreed to extend the deadline for these repairs from January 31, 2003 to March 30, 2003 with the exception of the installation of the hoist which shall be completed by April 30, 2003.

4. Airport Pump Station

The parties have agreed to extend the deadline for all repairs to March 30, 2003 with the exception of the hoist support frame and hoist which shall be completed by April 30, 2003.

5. Vessup Bay WWTP

The VI Government is given until March 30, 2003 to submit

either a plan for replacement of the plant or an estimate from a qualified contractor for the repair (lining) of the tank walls. If the tank walls are to be repaired, the walls shall be repaired by August 31, 2003. If the entire plant is to be replaced, the VI Government is given until March 30, 2004 to have a replacement plant installed and in operation.

6. Brassview WWTP

The Parties have agreed to extend the deadline for these repairs to March 30, 2003.

C. ST. JOHN

1. Construction of Power Boyd Pump Station.

Plans and specifications shall be prepared by August 30, 2003 and construction of the station is to be completed by August 30, 2004. The Government has indicated that the construction of the plant may not be feasible until there is a sufficient level of rate payers to justify construction of the station. The Government shall submit a written justification to the EPA and the EPA shall review any such submission in order to determine whether it agrees with the Government's position to delay the project. It is further

ORDERED AND DECREED, that the Revised Exhibit A, Schedule for
Repairs (As agreed to by parties on February 27, 2003), is
attached hereto and incorporated herein by reference

Entered this 7th day of March, 2003.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

ATTEST:

WILFREDO F. MORALES
Clerk of the Court

By: _____
Deputy Clerk

Copies to:

Hon. Raymond L. Finch
Hon. Geoffrey W. Barnard
Hon. Jeffrey L. Resnick
Joycelyn Hewlett, Esq.
William Dillon, Esq.; FAX: 773-1407
Donald G. Frankel, Esq.; FAX: 617-450-0448
Iver A. Stridiron, Esq.
Michael Law, Esq.; FAX: 774-9710
Dr. Rafael Rios; FAX: 787-763-9597
Pedro A. Modesto; FAX: 787-289-7102
Mrs. Trotman
Joshua R. Geller, Esq.
St. Croix law clerks
Order Book

Exhibit A Schedule for Repairs
(As agreed to by parties on February 27, 2003)

	Projects/Repairs	Current deadlines (as of Court's November 2002 Order)	New completion dates agreed to by the VI Govt and the EPA.
	<u>St. Croix</u>		
St. Croix WWTP	contract operation until the Virgin Islands has achieved six consecutive months of compliance with all applicable effluent limitations (<u>see</u> Amended Decree Section V.3)	November 30, 2002 (start date) March 29, 2003 completion date for all three islands	
	repair septage receiving station or replace by positive displacement pump	February 8, 2002 Completed	COMPLETED
	replace/repair the mechanical bar screens mechanism	August 28, 2002	COMPLETED
	repair grit collector mechanism; install new sluice gates, new railings, cross members, frame, and grit scrapers	Manual operation of mechanism with vacuum truck is allowed until plant is upgraded or replaced.	Written SOP to be submitted by March 30, 2003.
	repair or replace the sludge removal mechanism (scraper system) in the clarifiers, refurbish the sludge drain pipes and sludge waste pumps	December 31, 2002	COMPLETED
	repair overhead crane limit switch	February 28, 2002	COMPLETED
	replace one variable speed starter and two single speed starters for influent pumps	November 15, 2002	COMPLETED
	repair mechanical seals for influent pumps	November 30, 2002 (packing seals)	April 15, 2003 (mechanical seals)
	repair collapsed land portion of outfall	October 31, 2002	COMPLETED

	repair digester pumps	April 30, 2002 Completed	COMPLETED
St. Croix Sewer Collection System	repair Race Track open hole with sewage flowing through it located adjacent to the east Airport road and the Randal "Doc" James Horse Race Track	December 30, 2002	Begin construction by May 30, 2003. Complete repair by August 31, 2003.
	repair Bethlehem Gut sewer line discharging into the Bethlehem Gut, west of the Territorial Court, at the bridge which traverses the Bethlehem Gut.	December 30, 2002	Begin construction by May 30, 2003. Complete repair by August 31, 2003.
	Investigate and repair Catherine's Rest collapsed line segment.	December 30, 2002	Begin construction by May 30, 2003. Complete repair by August 31, 2003.
	Investigate Adventure Gut accumulation of raw sewage near the Patrick Sweeney Police Headquarters.	December 30, 2002	Complete investigation by March 31, 2003. If repairs are required, begin construction by May 30, 2003 and complete construction by August 31, 2003.
	Conduct sanitary sewer system evaluation survey, infiltration/inflow studies with recommendations to replace or repair collapsed sewer line segments around St. Croix and stop inflow.	March 29, 2003	March 31, 2004
	Replace or repair any collapsed sewer line segments in St. Croix not identified above and stop inflow in accordance with sanitary sewer system evaluation survey recommendations	September 30, 2005 All three islands	
Figtree Pump Station	Overhaul house Pump No. 3, refurbish and replace the bearings	April 30, 2002 Completed	
	evaluate and repair overhead crane		COMPLETED
	replace or repair any pumps that are not operational, so that all the house pumps are in full operational condition at all times.	January 20, 2003 (one pump) February 3, 2003 (second pump)	April 30, 2003

	replace motor control center for all pumps, refurbish starters and comptrollers	February 3, 2003	April 30, 2003
	replace or repair air exhaust/inlet ventilation system in wet well	December 31, 2002	April 30, 2003
	replace check valves, flanges and spool pieces	February 3, 2003	April 30, 2003
	repair/reinforce all house pumps anchor bases	February 3, 2003	April 30, 2003
	refurbish emergency generator (alternate power unit)	February 28, 2003 (to replace)	April 30, 2003
Lagoon Street P S	new emergency generator (alternate power unit) repair of the discharge pipe	February 28, 2003	April 30, 2003 Inspection completed by May 30, 2003. Repairs completed by November 30, 2003
LBJ PS	new emergency generator (alternate power unit)	December 30, 2002	March 28, 2003
	replace or repair any pumps that are not operational, so that all the house pumps are in full operational condition at all times	February 3, 2003	April 30, 2003
NEW 2003 ST. CROIX REPAIRS			
Lagoon Street PS	Replace or repair any pumps that are not operational so that all three house pumps are in full operational condition		July 31, 2003
Lagoon Street and LBJ Pump Stations	Install T valves so that an emergency diesel pump can be used at these stations.		July 31, 2003
St. Croix Pump Stations (other than	Replace or repair any pumps that are not operational so that all the house pumps are in full operational condition		August 31, 2003

LBJ, Figtree and Lagoon Street).	Replace or repair emergency generators that are not operational so that all emergency generators are in full operational condition.		May 30, 2003
St. Croix Diesel Pump	Acquire emergency diesel pump for use on St. Croix.		July 31, 2003
Estate Diamond	Repair the existing sewer problem.		August 31, 2003
Funding for the new 2003 Repairs	The new 2003 repairs shall be funded from the bank account created pursuant to section A.3 of the Court's December 19, 2001 Order. The Virgin Islands shall reimburse the account for the funds required for these repairs/projects.		September 30, 2003 to reimburse bank account.
	<u>St. Thomas</u>		
Airport Lagoon WWTP	repair or replace chlorine generator or put in place an alternative disinfection program	December 30, 2002	COMPLETED
	repair or replace all mechanical blowers, repair air manifolds for the aeration system, install miscellaneous air piping, valves, fittings and diffusers	December 30, 2002	COMPLETED
	repair or replace baffle curtain	December 30, 2002	COMPLETED
	headwork improvements; install screening device to trap objects (bar screen), install distribution header and diffuser to allow influent to enter lagoon below water surface and eliminate existing influent fall into the lagoon, install flow meter,	December 30, 2002	March 14, 2003
		December 30,	COMPLETED

	remove sludge from lagoon.	2002	COMPLETED
	Repair internal sludge recycling mechanism	December 30, 2002	COMPLETED
	enhance sampling points (influent and effluent locations), provide platform (rest) for sampling equipment	December 30, 2002	March 24, 2004
	reinforce lagoon west berm	December 30, 2002	COMPLETED
	repair access road	December 30, 2002	
	refurbish administration building	August 31, 2002 Completed	COMPLETED
	refurbish/repair emergency generator	April 30, 2002 Completed	COMPLETED
	contract operation until the Virgin Islands has achieved six consecutive months of compliance, utilities/chemicals	December 30, 2003	
Cancryn PS	repair/ replace inlet/exhaust air ventilation system, install explosion-proof lights in dry well, repair or replace bar screen, provide overhead crane or lift for operator to remove screened debris	Exhaust – completed Lights December 31, 2002 Bar screens/crane January 31, 2003	March 30, 2003 for all repairs except hoist which shall be completed by April 30, 2003
Long Bay PS	repair/ replace inlet/exhaust air ventilation system, repair/ replace explosion-proof lights in dry well, repair or replace bar screen, provide overhead crane or lift for operator to remove screened debris	January 31, 2003	March 30, 2003 for all repairs except hoist which shall be completed by April 30, 2003
Airport PS	repair/ replace inlet/exhaust air ventilation system, repair /replace explosion-proof lights in dry well,	Bar screen/crane January 31, 2003	March 30, 2003 for all repairs except

	repair or replace bar screen, provide overhead crane or lift for operator to remove screened debris		hoist which shall be completed by April 30, 2003
Vessup Bay WWTP (Nazareth)	replace tank walls that are corroded	December 30, 2002	By March 30, 2003 submit a plan for either replacement or lining of tank walls. Repair tank walls by August 31, 2003 if this option is used or replace entire plant by March 30, 2004
Brassview WWTP	Repair/replace outfall or implement acceptable effluent disposal method (i.e.; resource recovery for agricultural purposes) including plant rehab	December 30, 2002	March 30, 2003
Mangrove Lagoon WWTP	contract operation to continue for two years from commencement of operation of plant (<u>see</u> Amended Decree Section V.1)	January 31, 2002 or from startup of Mangrove (whichever occurs first)	
Emergency Sewer Line Repairs	Repair of collapsed sewer lines at Territorial Court and Airport Road.		COMPLETED
	<u>St. John</u>		
George Simmonds PS	Replace concrete lid and access hatch, install new pump bases and rails, install new control panel, and replace or repair fencing.	March 31, 2003	COMPLETED
Cruz Bay Ejector PS	Replace or repair pump that is not operational, replace pump controls and electrical boxes.	Completed	COMPLETED
Cruz Bay Pond Mouth PS	Repair or replace two non-operational pumps, repair or replace emergency generator.	Pending execution Of Operations Contract October 31, 2002	COMPLETED
	Construct new Power Boyd Pump Station	August 30, 2003	Plans and specifications to be

			submitted by August 30, 2003. Completion of project by August 30, 2004.
Cruz Bay WWTP	contract operation to continue until for two years from commencement of operation of plant (<u>see</u> Amended Decree Section V.1)	Started 09-28-2001	
George Simmonds WWTP	Improvements for the George Simmonds WWTP to enhance treatment capabilities	April 30, 2003	
	<u>Miscellaneous</u>		
	Reimburse the \$1.9 million of funds that the Virgin Islands has indicated were incorrectly taken out of an account for the Mangrove Lagoon project.	March 31, 2002 Completed	COMPLETED
	Purchase equipment, hand tools and materials for in-house repairs. Purchase water truck, vehicles, existing vehicle repair	July 30, 2002	